

appropriately addressed the issues of defense-in-depth, safety margins, and aggregate risk impacts. The staff finds the proposed categorization process to be acceptable to categorize the risk significance of both functions and SSCs for use in reducing the scope of SSCs subject to special treatment. The categorization process provides an acceptable method for defining those SSCs for which exemptions from the special treatment requirements can be granted. In support of its finding on the licensee's categorization process, the staff also found that the alternative treatment practices provide the licensee with a framework that, if effectively implemented, will provide reasonable confidence that safety-related LSS and NRS SSCs remain capable of performing their safety functions under design-basis conditions. Based on these findings, the staff determined that LSS and NRS SSCs could be excluded from the scope of 10 CFR 50.55a(g) without undue risk to public health and safety to the extent that 10 CFR 50.55a(g) imposes the ISI requirements for ASME Code Class 1, 2, and 3 components, and the repair and replacement requirements for ASME Code Class 2 and 3 components, of Section XI of the ASME Code.

The staff also found that granting of this exemption is in the public interest in that it enhances the effectiveness and efficiency of the NRC's oversight of the licensee's activities at STP by focusing its resources on those SSCs that are most significant to maintaining public health and safety. Likewise, the licensee's resources and attention can be focused on those SSCs that have the highest contribution to plant risk. Further, the licensee's categorization process provides a method for establishing a licensing basis for STP that is consistent with the risk-informed approach in the NRC's reactor oversight process. This enhances the regulatory framework under which STPNOC operates its facility and by which the NRC oversees the licensee's activities.

As discussed further in the August 3, 2001, SE prepared in support of this exemption, the NRC has concluded that the special circumstances of 10 CFR 50.12(a)(2)(vi) are satisfied in that the licensee has presented a material circumstance (the categorization process) that was not considered when the regulations were adopted and that provides an acceptable method for refining the scope of SSCs to include under the regulations. Furthermore, it is in the public interest to grant such exemptions. Finally, as required by 10 CFR 50.12(a)(2)(vi), the Executive Director for Operations has consulted with the Commission in the application

of this special circumstance during the Commission meeting held on July 20, 2001.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions are authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants, subject to the conditions described below, STPNOC the exemption from the requirements of 10 CFR 50.55a(g) to the extent that it imposes the ISI requirements of Section XI of the ASME Code on ASME Code Class 1, 2, and 3 safety-related SSCs at STP categorized as LSS or NRS. Further, the Commission hereby grants, subject to the conditions described below, STPNOC the exemption from the requirements of 10 CFR 50.55a(g) to the extent that it imposes the repair and replacement requirements of Section XI of the ASME Code on ASME Code Class 2 and 3 SSCs at STP categorized as LSS or NRS. As conditions of these exemptions:

1. The licensee described the categorization, treatment, and oversight (evaluation and assessment) processes in its submittal dated July 13, 1999, as supplemented October 14 and 22, 1999, January 26 and August 31, 2000, and January 15, 18, 23, March 19, May 8 and 21, 2001. The licensee has documented these processes in a proposed Final Safety Analysis Report (FSAR) submittal dated May 21, 2001, found acceptable by the staff as the regulatory basis for granting this exemption (see the NRC's SE dated August 3, 2001). The licensee shall incorporate this proposed FSAR submittal into the STP FSAR and shall implement the categorization, treatment, and oversight processes consistent with the STP FSAR descriptions.

2. The licensee shall implement a change control process that incorporates the following requirements:

- a. Changes to FSAR Section 13.7.2, "Component Categorization Process," dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would decrease the effectiveness of the process in identifying high safety significant and medium safety significant components.

- b. Changes to FSAR Section 13.7.3, "Treatment of Component Categories," dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a reduction in the assurance of component functionality.

- c. Changes to FSAR Section 13.7.4, "Continuing Evaluations and Assessments," dated May 21, 2001, and found acceptable by

the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a decrease in effectiveness of the evaluations and assessments.

- d. The licensee shall submit a report, as specified in 10 CFR 50.4, of changes made without prior NRC approval pursuant to these provisions. The report shall identify each change and describe the basis for the conclusion that the change does not involve a decrease in effectiveness or assurance as described above. The report shall be submitted within 60 days of the date of the change.

- e. Changes to FSAR Sections 13.7.2, 13.7.3, and 13.7.4 that do not meet the criteria of a through c above shall be submitted to the NRC for prior review and approval.

Pursuant to 10 CFR 51.32, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** (66 FR 32397). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon submittal of a FSAR update pursuant to 10 CFR 50.71(e) incorporating the FSAR Sections described in the conditions above.

Dated at Rockville, Maryland, this 3rd day of August, 2001.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No(s). 50-498 and 50-499]

### STP Nuclear Operating Company, et al. South Texas Project, Units 1 and 2; Exemption

#### 1.0 Background

STP Nuclear Operating Company, et al. (STPNOC or the licensee) is the holder of Facility Operating License Nos. NPF-76 and NPF-80, which authorize operation of the South Texas Project, Units 1 and 2 (STP or the facilities). The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facilities consist of two pressurized-water reactors located at the

licensee's site in Matagorda County, Texas.

## 2.0 Request/Action

Under Section 50.55a(h)(2) of Title 10 to the Code of Federal Regulations, Part 50, [10 CFR 50.55a(h)(2)] for nuclear power plants with construction permits issued after January 1, 1971, but before May 13, 1999, protection systems must meet the requirements stated in either Institute of Electrical and Electronics Engineers (IEEE) Std. 279, "Criteria for Protection Systems for Nuclear Power Generating Stations," or in IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations," and the correction sheet dated January 30, 1995. STPNOC is committed to meet IEEE 279-1971. The scope of IEEE 279 states that this standard establishes the minimum safety-related functional performance and reliability requirements for protection systems in a nuclear power plant. Fulfillment of these requirements does not necessarily establish the adequacy of protective system functional performance and reliability, but failure to fulfill any of these requirements usually indicates system inadequacy.

By letter dated July 13, 1999, as supplemented October 14 and 22, 1999, January 26 and August 31, 2000, and January 15, 18, 23, March 19, May 8, and May 21, 2001, (hereinafter, the submittal), STPNOC requested an exemption from the requirements of 10 CFR 50.55a(h) to the extent that it imposes the requirements of Sections 4.3 and 4.4 of IEEE 279 on structures, systems, and components (SSCs) categorized as low safety significant (LSS) and non-risk significant (NRS), using the licensee's categorization process. Section 4.3 of IEEE 279 contains requirements for the quality of components and modules. Section 4.4 of IEEE 279 contains requirements for equipment qualification. The other requirements listed in IEEE 279, including functional and design requirements, will continue to be applied.

## 3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(vi), special circumstances are present whenever

there is any other material circumstances not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If the special circumstance of 10 CFR 50.12(a)(2)(vi) is relied on exclusively, the exemption may not be granted until the Executive Director for Operations has consulted with the Commission.

The NRC has completed its evaluation of STPNOC's request for an exemption from the requirements of 10 CFR 50.55a(h)(2). The NRC's evaluation is provided in a safety evaluation (SE), dated August 3, 2001, prepared in support of this exemption.

The staff has reviewed STPNOC's integrated SSC categorization process. The categorization process was found to use both a probabilistic and a deterministic based methodology that appropriately addressed the issues of defense-in-depth, safety margins, and aggregate risk impacts. The staff finds the proposed categorization process to be acceptable to categorize the risk significance of both functions and SSCs for use in reducing the scope of SSCs subject to special treatment. The categorization process provides an acceptable method for defining those SSCs for which exemptions from the special treatment requirements can be granted. In support of its finding on the licensee's categorization process, the staff also found that the alternative treatment practices provide the licensee with a framework that, if effectively implemented, will provide reasonable confidence that safety-related LSS and NRS SSCs remain capable of performing their safety functions under design-basis conditions. Based on these findings, the staff determined that LSS and NRS SSCs could be excluded from the scope of 10 CFR 50.55a(h)(2) to the extent that it imposes the requirements of Sections 4.3 and 4.4 of IEEE 279 on LSS and NRS SSCs without undue risk to public health and safety.

The staff also found that granting of this exemption is in the public interest in that it enhances the effectiveness and efficiency of the NRC's oversight of the licensee's activities at STP by focusing its resources on those SSCs that are most significant to maintaining public health and safety. Likewise, the licensee's resources and attention can be focused on those SSCs that have the highest contribution to plant risk. Further, the licensee's categorization process provides a method for establishing a licensing basis for STP that is consistent with the risk-informed approach in the NRC's reactor oversight process. This enhances the regulatory framework under which STPNOC

operates its facility and by which the NRC oversees the licensee's activities.

As discussed further in the August 3, 2001, SE prepared in support of this exemption, the NRC has concluded that the special circumstances of 10 CFR 50.12(a)(2)(vi) are satisfied in that the licensee has presented a material circumstance (the categorization process) that was not considered when the regulations were adopted and that provides an acceptable method for refining the scope of SSCs to include under the regulations. Furthermore, it is in the public interest to grant such exemptions. Finally, as required by 10 CFR 50.12(a)(2)(vi), the Executive Director for Operations has consulted with the Commission in the application of this special circumstance during the Commission meeting held on July 20, 2001.

## 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants, subject to the conditions described below, STPNOC the exemption from the requirements of 10 CFR 50.55a(h)(2) to the extent that it imposes the requirements of Sections 4.3 and 4.4 of IEEE 279 on SSCs at STP categorized as LSS and NRS. As conditions of this exemption:

1. The licensee described the categorization, treatment, and oversight (evaluation and assessment) processes in its submittal dated July 13, 1999, as supplemented October 14 and 22, 1999, January 26 and August 31, 2000, and January 15, 18, 23, March 19, May 8 and 21, 2001. The licensee has documented these processes in a proposed Final Safety Analysis Report (FSAR) submittal dated May 21, 2001, found acceptable by the staff as the regulatory basis for granting this exemption (see the NRC's SE dated August 3, 2001). The licensee shall incorporate this proposed FSAR submittal into the STP FSAR and shall implement the categorization, treatment, and oversight processes consistent with the STP FSAR descriptions.

2. The licensee shall implement a change control process that incorporates the following requirements:

- a. Changes to FSAR Section 13.7.2, "Component Categorization Process," dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would decrease the effectiveness of the process in identifying high safety significant and medium safety significant components.

- b. Changes to FSAR Section 13.7.3, "Treatment of Component Categories," dated

May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a reduction in the assurance of component functionality.

c. Changes to FSAR Section 13.7.4, "Continuing Evaluations and Assessments," dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a decrease in effectiveness of the evaluations and assessments.

d. The licensee shall submit a report, as specified in 10 CFR 50.4, of changes made without prior NRC approval pursuant to these provisions. The report shall identify each change and describe the basis for the conclusion that the change does not involve a decrease in effectiveness or assurance as described above. The report shall be submitted within 60 days of the date of the change.

e. Changes to FSAR Sections 13.7.2, 13.7.3, and 13.7.4 that do not meet the criteria of a through c above shall be submitted to the NRC for prior review and approval.

Pursuant to 10 CFR 51.32, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** (66 FR 32397). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon submittal of a FSAR update pursuant to 10 CFR 50.71(e) incorporating the FSAR Sections described in the conditions above.

Dated at Rockville, Maryland, this 3rd day of August, 2001.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No(s). 50-498 and 50-499]

### STP Nuclear Operating Company, et al., South Texas Project, Units 1 and 2; Exemption

#### 1.0 Background

STP Nuclear Operating Company, et al. (STPNOC or the licensee) is the holder of Facility Operating License Nos. NPF-76 and NPF-80, which authorize operation of the South Texas Project, Units 1 and 2 (STP or the facilities). The licenses provide, among other things, that the licensee is subject

to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facilities consist of two pressurized-water reactors located at the licensee's site in Matagorda County, Texas.

#### 2.0 Request/Action

Under Section 50.59 of Title 10 to the Code of Federal Regulations, Part 50, (10 CFR 50.59) requirements were established by which licensees could make changes to their facilities without prior NRC approval. For changes to the facility as described in the Final Safety Analysis Report (FSAR) (or to procedures as described in the FSAR), the licensee is to perform an evaluation of the change to determine whether certain conditions are met—if so, prior NRC approval for the change is required. The purpose of the rule is to ensure that the NRC has the opportunity to review changes of potential significance to the basis for licensing of the facility before they are implemented. The rule requires licensees to review proposed changes, and if they meet criteria that are related to accident probability or consequences, to seek prior NRC review and approval before implementing the particular change.

As discussed in a rulemaking that revised the 10 CFR 50.59 requirements published on October 4, 1999, (64 FR 53582) the rule was originally established to allow licensees the ability to make certain changes to their facilities, but also to preserve the functional requirements and information included in the FSAR on how the facilities, including its structures, systems, and components (SSCs), conform with NRC requirements for design, construction, and operation of the plant. The rule revision was intended to clarify which changes require evaluation and which changes require prior NRC approval.

By letter dated July 13, 1999, as supplemented October 14 and 22, 1999, January 26 and August 31, 2000, and January 15, 18, 23, March 19, May 8, and May 21, 2001, (hereinafter, the submittal), the licensee requested an exemption from the requirements of 10 CFR 50.59 [in particular, Paragraphs 50.59(c)(1), 50.59(c)(2) and 50.59(d)(1) of the revised rule] to perform a written evaluation for changes in special treatment requirements for low safety significant (LSS) and non-risk significant (NRS) SSCs. STPNOC further requested an exemption from the requirement to seek prior NRC approval for such changes to the extent that they fall within the listed criteria in 10 CFR 50.59.

#### 3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present under 10 CFR 50.12(a)(2)(ii) when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The NRC has completed its evaluation of STPNOC's request for an exemption from the requirements of 10 CFR 50.59 [Sections 50.59(c)(1), 50.59(c)(2) and 50.59(d)(1) under the revised rule]. The NRC's evaluation is provided in a safety evaluation (SE), dated August 3, 2001, prepared in support of this exemption. The FSAR for STP includes descriptions of many of the special treatment requirements as presently applied to SSCs. As such, the proposed approach described in the licensee's submittal that revises treatment applied to SSCs based on the results of the categorization process will result in changes to the descriptions of this treatment in the FSAR. These changes to the FSAR would fall within the scope of those requiring evaluation, and possibly prior NRC review and approval, pursuant to 10 CFR 50.59. STPNOC is proposing that it would not be required to evaluate FSAR changes that result from changes in the treatment for SSCs categorized as LSS or NRS or to seek prior NRC review and approval for these changes pursuant to 10 CFR 50.59. The exemption request does not extend to changes to functional requirements for SSCs that are described in the FSAR.

In the licensee's submittal, it requested exemptions from certain special treatment and process requirements in 10 CFR 21.3; 10 CFR 50.34(b)(6)(ii); 10 CFR 50.34(b)(10); 10 CFR 50.34(b)(11); 10 CFR 50.49(b); 10 CFR 50.54(a)(3); 10 CFR 50.55a(f); 10 CFR 50.55a(g); 10 CFR 50.55a(h); 10 CFR 50.65(b); 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 1, GDC 2, GDC 4, and GDC 18; 10 CFR Part 50, Appendix B; 10 CFR 50, Appendix J, Option B, Section III.B; and 10 CFR Part 100, Appendix A, Sections VI(a)(1) and (2). These exemption requests are being made to enable STPNOC to apply certain requirements in a graded manner based upon the safety/risk significance